IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 15270 of 2004

Between:

M/s.Rising Sun High School, Kothawada, Warangal,

Represented by its Secretary & Correspondent,

R.Shanmukhachary,S/o.Pedda Veeraiah,
R/o.Kothawada, Warangal Dist.

..... PETITIONER

AND

1 The Asst.Provident Fund Commissioner & Authority

under Section 7-A of Employees' provident funds and
Miscellaneous provisions Act 1952 at Warangal.

2 The Recovery officer, Employees Provident Funds,

Warangal Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the Demand Notice dated 12-8-2004 in No.AP/SRO/WGL/REC/31477/WGL/2004 issued by the 2nd respondent and also the order dated 8-5-2003 in No. AP/ SRO/WL/ENF/31477Z/WGL/7A/ order/2003-04/253 issued by the 1st respondent as illegal and arbitrary.

Counsel for the Petitioner: MR.A.PRABHAKAR RAO

Counsel for the Respondents: MR.R.N.REDDY, SC FOR PROVIDENT FUND

The Court made the following:

ORDER:

The petitioner is a School. The Provident Fund Assistant Commissioner of Warangal, passed an order on 08.05.2003 holding that the petitioner school is liable to pay the employees provident fund to a tune of Rs.1,93,489-95 ps payable for the period from 12/2002 to 3/2003. The petitioner was directed to remit the said amount determined under Section - 7A within ten days from the date of receipt of the said order. The petitioner failed to pay the said amount. Subsequently, on 12.08.2004 a demand notice was issued to the petitioner for a sum of Rs.3,38,871/- being the amount of contribution towards the Employees Provident Fund and the interest thereon.

2. The petitioner being aggrieved by the demand notice dated 12.08.2004, approached this Court, seeking to declare that the said demand notice issued by the respondents in pursuance of the order dated 08.05.2003 is illegal and arbitrary. 3. The learned Counsel for the petitioner submitted that the petitioner, on account of competition, could not/ successfully run the school and it is running in losses. Therefore, he is facing financial difficulty, and he is not in a position to pay the entire amount, as demanded by the respondents. He therefore, requested to permit him to pay Rs.38,871/- in one installment and the rest of the amount of Rs.3,00,000/- in 20 installments.

4. The learned Counsel for the respondents represented that it would be reasonable, if the petitioner is granted time to pay the amount in 12 monthly installments.

5. By taking into consideration the circumstances explained by the petitioner, the petitioner is directed to pay Rs.38,871/- on or before 10-09-2004 and to pay the balance amount of Rs.3,00,000/- in 15 monthly installments by making the

payment on or before 10th of every succeeding month, commencing from October, 2004. If the petitioner fails to stick to the above schedule, the respondent is at liberty to take further steps according to law. The petitioner is at liberty to prefer an appeal provided under the statute and workout his rights according to law.

6. The writ petition is accordingly disposed of. No order as to costs.

Note:

Issue CC by tomorrow

B/o

dsr/rns

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Asst.Provident Fund Commissioner & Authority

under Section 7-A of Employees' provident funds and Miscellaneous provisions Act 1952 at Warangal.

2 The Recovery officer, Employees Provident Funds,

Warangal Dist.

3. Two CD copies.